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6 **BEFORE THE**
7 **BOARD OF REGISTERED NURSING**
8 **DEPARTMENT OF CONSUMER AFFAIRS**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-440

11 **SHANNON NICHOLE PLOUFFE**
12 **21661 Brookhurst Street #26**
13 **Huntington Beach, CA 92646**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

14 **Registered Nurse License No. 538120**

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about February 15, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her
18 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
19 of Consumer Affairs, filed Accusation No. 2012-440 against Shannon Nichole Plouffe
(Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

20 2. On or about October 27, 1997, the Board of Registered Nursing (Board) issued
21 Registered Nurse License No. 538120 to Respondent. The Registered Nurse License expired on
22 July 31, 2011, and has not been renewed.

23 3. On or about February 15, 2012, Respondent was served by Certified and First Class
24 Mail copies of the Accusation No. 2012-440, Statement to Respondent, Notice of Defense,
25 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
26 and 11507.7) at Respondent's address of record which, pursuant to California Code of
27 Regulations, title 16, section 1409.1 and Business and Professions Code section 136, is required
28 to be reported and maintained with the Board, which was and is:

1 21661 Brookhurst Street #26
2 Huntington Beach, CA 92646

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 5. Government Code section 11506 states, in pertinent part:

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent
8 files a notice of defense, and the notice shall be deemed a specific denial of all parts
9 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-
12 440.

13 7. California Government Code section 11520 states, in pertinent part:

14 (a) If the respondent either fails to file a notice of defense or to appear at the
15 hearing, the agency may take action based upon the respondent's express admissions
16 or upon other evidence and affidavits may be used as evidence without any notice to
respondent.

17 8. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
20 taking official notice of all the investigatory reports, exhibits and statements contained therein on
21 file at the Board's offices regarding the allegations contained in Accusation No. 2012-440, finds
22 that the charges and allegations in Accusation No. 2012-440, are separately and severally, found
23 to be true and correct by clear and convincing evidence.

24 9. Taking official notice of its own internal records, pursuant to Business and
25 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
26 and Enforcement is \$702.50 as of March 12, 2012.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Shannon Nichole Plouffe has subjected her Registered Nurse License No. 538120 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's Registered Nurse License based upon the following violations alleged in the Accusation which are supported by the Default Decision Investigatory Evidence Packet in this case:

a. Respondent has subjected her license to disciplinary action under sections 490 and 2761, subdivision (f) of the Code in that on or about December 15, 2008, in a criminal proceeding entitled *People of the State of California v. Shannon Nicolle Plouffe, aka Shannon Nichole Plouffe*, in Orange County Superior Court, case number 08CM08413, Respondent was convicted on her plea of guilty of violating Vehicle Code section 23152, subdivision (a), driving under the influence of a drug, a misdemeanor, a crime that is substantially related to the qualifications, functions, and duties of a registered nurse.

b. Respondent has subjected her registered nurse license to disciplinary action under section 2762, subdivision (b) of the Code for unprofessional conduct in that on or about March 9, 2008, Respondent used a prescription medication to an extent or in a manner that was dangerous and injurious to herself, and to others in that she operated a motor vehicle while significantly impaired, causing a collision and major property damage.

c. Respondent has subjected her registered nurse license to disciplinary action under section 2762, subdivision (c) of the Code for unprofessional conduct in that on or about December 15, 2008, Respondent was convicted of a criminal offense involving the consumption and/or self-administration of a prescription medication and dangerous drug.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 538120, heretofore issued to Respondent Shannon Nichole Plouffe, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 6, 2012.

It is so ORDERED July 6, 2012



FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

DOJ Matter ID:SD2011801227

Attachment:
Exhibit A: Accusation 2012 440

Exhibit A

Accusation 2012-440

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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2012-440**

13 **SHANNON NICHOLE PLOUFFE**
14 **21661 Brookhurst Street #26**
15 **Huntington Beach, CA 92646**

A C C U S A T I O N

16 **Registered Nurse License No. 538120**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about October 27, 1997, the Board of Registered Nursing issued Registered
24 Nurse License Number 538120 to Shannon Nichole Plouffe (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on July 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

9

10 (f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

12

13 10. Section 2762 of the Code states:

14 In addition to other acts constituting unprofessional conduct within the meaning
15 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do any of the following:

16

17 (b) Use any controlled substance as defined in Division 10 (commencing with
18 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
19 dangerous or injurious to himself or herself, any other person, or the public or to the
extent that such use impairs his or her ability to conduct with safety to the public the
20 practice authorized by his or her license.

21 (c) Be convicted of a criminal offense involving the prescription, consumption,
or self-administration of any of the substances described in subdivisions (a) and (b) of
22 this section, or the possession of, or falsification of a record pertaining to, the
substances described in subdivision (a) of this section, in which event the record of
23 the conviction is conclusive evidence thereof.

24

25 11. Section 2765 of the Code states:

26 A plea or verdict of guilty or a conviction following a plea of nolo contendere
27 made to a charge substantially related to the qualifications, functions and duties of a
registered nurse is deemed to be a conviction within the meaning of this article. The
board may order the license or certificate suspended or revoked, or may decline to
28 issue a license or certificate, when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

12. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a

manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

14. California Code of Regulations, title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

1 (1) Nature and severity of the act(s) or offense(s).

2 (2) Total criminal record.

3 (3) The time that has elapsed since commission of the act(s) or offense(s).

4 (4) Whether the licensee has complied with any terms of parole, probation,
5 restitution or any other sanctions lawfully imposed against the licensee.

6 (5) If applicable, evidence of expungement proceedings pursuant to Section
7 1203.4 of the Penal Code.

8 (6) Evidence, if any, of rehabilitation submitted by the licensee.

9 COSTS

10 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
11 administrative law judge to direct a licensee found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 FIRST CAUSE FOR DISCIPLINE

15 (December 15, 2008 Criminal Conviction for DUI on March 9, 2008)

16 16. Respondent has subjected her license to disciplinary action under sections 490 and
17 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
18 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
19 follows:

20 a. On or about December 15, 2008, in a criminal proceeding entitled *People of the*
21 *State of California v. Shannon Nicolle Plouffe, aka Shannon Nichole Plouffe*, in Orange County
22 Superior Court, case number 08CM08413, Respondent was convicted on her plea of guilty of
23 violating Vehicle Code section 23152, subdivision (a), driving under the influence of a drug, a
24 misdemeanor.

25 b. As a result of the conviction, on or about December 15, 2008, Respondent was
26 sentenced to three years summary probation, and ordered to attend and complete a three-month
27 Level 1 First Offender Alcohol Program and a MADD Victim Impact Panel, attend 10 AA or NA
28 meetings per month, pay \$1,247 in fees, fines, and restitution, plus restitution to the victim, and
comply with the terms of standard DUI probation.

1 c. The facts that led to the conviction are that on or about the late afternoon of
2 March 9, 2008, a patrol officer with the California Highway Patrol (CHP) was dispatched to a
3 traffic collision at an SR-55 freeway transition in the city of Santa Ana. Upon arrival at the
4 scene, witnesses made statement to the CHP officer that Respondent was driving erratically on
5 SR-55, slowing down, speeding up, weaving from lane to lane, and cutting off other cars.
6 Witnesses stated that Respondent suddenly accelerated into the HOV lane, then she swerved to
7 the right and collided with a Mercedes Benz. As Respondent and the Mercedes Benz driver
8 pulled over to the right shoulder, Respondent accelerated again and attempted to pass the
9 Mercedes Benz on the left, colliding a second time. Numerous witnesses watched Respondent
10 continue to drive onto the freeway offramp, accelerate to a high rate of speed, and drive directly
11 into a light pole. The CHP officer contacted Respondent sitting in the driver's seat of her vehicle.
12 Respondent's vehicle sustained major damage, and there was also prior collision damage visible.
13 Respondent was lethargic, she had slurred speech and red, watery eyes, and she was unable to
14 stand upright without assistance. The CHP officer attempted to conduct a series of field sobriety
15 tests which Respondent was unable to complete as explained and demonstrated. Respondent
16 denied consuming any alcohol or drugs, and she was not aware that she had been involved in
17 three separate collisions. Respondent submitted to a preliminary alcohol screening test; no
18 alcohol was detected in the breath sample. Respondent was arrested for driving under the
19 influence. During booking, a second officer was called to perform a Drug Recognition
20 Evaluation on Respondent. Based on his evaluation, it was determined that Respondent was
21 under the influence of a central nervous system depressant. Respondent was required to submit to
22 a blood chemical test which tested positive for the prescription barbiturate butalbital, a dangerous
23 drug pursuant to Business and Professions Code section 4022.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Use of a Prescription Medication in a Dangerous Manner)

3 17. Respondent has subjected her registered nurse license to disciplinary action under
4 section 2762, subdivision (b) of the Code in that on or about March 9, 2008, as described in
5 paragraph 16, above, Respondent used a prescription medication to an extent or in a manner that
6 was dangerous and injurious to herself, and to others in that she operated a motor vehicle while
7 significantly impaired, causing a collision and major property damage.

8 THIRD CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct - Conviction of Drug-Related Criminal Offense)

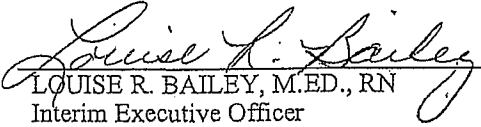
10 18. Respondent has subjected her registered nurse license to disciplinary action under
11 section 2762, subdivision (c) of the Code in that on or about December 15, 2008, as described in
12 paragraph 16, above, Respondent was convicted of a criminal offense involving the consumption
13 and/or self-administration of a prescription medication and dangerous drug.

14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Registered Nursing issue a decision:

- 17 1. Revoking or suspending Registered Nurse License Number 538120, issued to
18 Shannon Nichole Plouffe;
- 19 2. Ordering Shannon Nichole Plouffe to pay the Board of Registered Nursing the
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
21 Professions Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.
- 23

24 DATED: February 15, 2012

25 
26 LOUISE R. BAILEY, M.ED., RN
27 Interim Executive Officer
28 Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2011801227